

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFF

RADAMED VELEZ

(b) County of Residence of First Listed Plaintiff BUCKS
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Cary L. Flitter, Esq. and Andrew M. Milz, Esq., Flitter Milz, P.C., 450 N. Narberth Avenue,
Suite 101, Narberth, PA 19072, (610) 822-0781

DEFENDANT

ENHANCED RECOVERY COMPANY, LLC

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | PTF | DEF | PTF | DEF |
|--|---|----------------------------|----------------------------|
| Citizen of This State <input type="checkbox"/> 1 | <input type="checkbox"/> 1 Incorporated <i>or</i> Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State <input type="checkbox"/> 2 | <input type="checkbox"/> 2 Incorporated <i>and</i> Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country <input type="checkbox"/> 3 | <input type="checkbox"/> 3 Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN (Place an "X" in One Box Only)

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened

Transferred from ☐ 5 another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. § 1692

Brief description of cause: Violation of Fair Debt Collection Practices Act

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint
JURY DEMAND: ☒ Yes ☐ No.

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE Jan 13, 2016 SIGNATURE OF ATTORNEY OF RECORD Cary L. Flitter

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

APPENDIX I

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

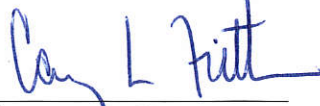
CASE MANAGEMENT TRACK DESIGNATION FORM

RADAMED VELEZ	:	CIVIL ACTION
v.	:	
	:	
ENHANCED RECOVERY COMPANY, LLC	:	NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. §2241 through §2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (☒)
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

<u>Jan 13, 2016</u> Date	 Attorney at Law	<u>Cary L. Flitter</u> Attorney for Plaintiff
<u>610-822-0782</u> Telephone	<u>610-667-0552</u> Fax Number	<u>cflitter@consumerslaw.com</u> E-Mail Address

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 51 Red Maple Lane, Levittown, PA 19055

Address of Defendant: 8014 Bayberry Road, Jacksonville, FL 32256

Place of Accident, Incident or Transaction: 51 Red Maple Lane, Levittown, PA 19055

Use Reverse Side For Additional Space

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a) Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities? Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases

(Please specify) Fair Debt Collection Practices Act, 15 U.S.C. § 1692

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability (Asbestos)
9. ☐ All other Diversity Cases
(Please specify)

ARBITRATION CERTIFICATION

(Check appropriate Category)

I, _____, counsel of record do hereby certify:

☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought

DATE: _____ Attorney-at-Law _____ Attorney I.D. _____

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: Jan 13, 2016 Cay L. Fitt 35047
CIV.609 (4/03) Attorney-at-Law Attorney I.D.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

RADAMED VELEZ
51 Red Maple Lane
Levittown, PA 19055,

Plaintiff,

vs.

ENHANCED RECOVERY COMPANY, LLC, NO.
8014 Bayberry Road
Jacksonville, FL 32256,
Defendant

CIVIL ACTION

COMPLAINT

I. INTRODUCTION

1. This action is brought pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. §1692 (“FDCPA”). The FDCPA prohibits debt collectors from engaging in deceptive and unfair practices in the collection of consumer debt.

2. Defendant debt collector has sent out a collection notice to Plaintiff that states that a settlement may be reported to the IRS. Under prevailing IRS regulation, reporting would never be required in the compromise of a \$390.00 debt. The statement is both false and misleading, in violation of the Act.

II. JURISDICTION

3. Jurisdiction arises under the FDCPA, 15 U.S.C. §1692k, and 28 U.S.C. §§1331 and 1337.

4. *In personam* jurisdiction exists and venue is proper as Defendant does business in this district and has caused harm in this district.

III. PARTIES

5. Plaintiff Radamed Velez (“Plaintiff” or “Velez”) is a consumer who resides in Levittown, Pennsylvania at the address captioned above.

6. Defendant Enhanced Recovery Company, LLC (“ERC” or “Defendant”) is a Florida limited liability company with a principal office as captioned.

7. ERC regularly uses the mail and telephone to attempt to collect consumer debts alleged to be due another.

8. ERC regularly collects consumer debts in the Eastern District of Pennsylvania.

9. ERC is a “debt collector” as that term is contemplated in the FDCPA, 15 U.S.C. §1692a(6).

IV. STATEMENT OF CLAIM

10. On August 3, 2015, Defendant ERC sent Plaintiff a communication in connection with a consumer debt claimed due to TD Bank USA, N.A./Target. (*See* correspondence from ERC attached hereto as Exhibit “A”, redacted per Fed. R. Civ. Pro. 5.2). The letter includes a settlement amount of \$554.16.

11. In the August 3, 2015 letter, Defendant states:

“In addition, any indebtedness of \$600.00 or more, which is discharged as a result of a settlement, may be reported to the IRS as taxable income pursuant to the Internal Revenue Code 6050 (P) ...”

(*See* Exhibit “A”).

12. The statement in the collection letter that “any indebtedness of \$600.00 or more, which is discharged as a result of a settlement, may be reported to the IRS...” is false and is misleading.

13. IRS Regulation 1.6050P requires that an “applicable entity” report a cancellation or discharge of indebtedness under certain circumstances but only when the forgiveness is in excess of \$600.00. It does not state the requirement to report a discharge of a *settlement*.

14. As such, the statement in Defendant’s collection letter that “any indebtedness of \$600.00 or more, which is discharged as a result of a settlement, may be reported to the IRS...” is both false, and misleading to the consumer.

COUNT I – FAIR DEBT COLLECTION PRACTICES ACT

15. Plaintiff repeats the allegations set forth above as if the same were set forth at length herein.

16. Defendant violated the FDCPA by sending a collection notice to Plaintiff which:
- (a) Made false, deceptive, or misleading representations or statements in connection with the collection of consumer debt, 15 U.S.C. § 1692e; and
 - (b) Utilize false representation or deceptive means to collect or attempt to collect a consumer debt, 15 U.S.C. § 1692e(10).

WHEREFORE, Plaintiff Radamed Velez prays that this Court enter judgment against Defendant Enhanced Recovery Company, LLC;

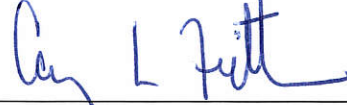
- (a) Damages;
- (b) Attorney’s fees and costs; and
- (c) Such other and further relief as the Court shall deem just and proper.

V. **DEMAND FOR JURY TRIAL**

Plaintiffs demand a trial by jury as to all issues so triable.

DATE: Jan 13, 2016

Respectfully submitted:



CARY L. FLITTER
ANDREW M. MILZ

FLITTER MILZ, P.C.
450 N. Narberth Avenue, Suite 101
Narberth, PA 19072
(610) 822-0782

Attorneys for Plaintiff

EXHIBIT “A”



Enhanced Recovery Company, LLC

August 03, 2015

Creditor: TD BANK USA, N.A./TARGET CREDIT CARD
Account Number: XXXXXXXXXXX3590
Amount of Debt: \$ [REDACTED]
Reference Number: [REDACTED] 3099
Settlement Amount: \$554.16

SETTLEMENT OPPORTUNITY

RADAMED VELEZ

Our records indicate that your balance with TD BANK USA, N.A./TARGET CREDIT CARD remains unpaid; therefore your account has been placed with Enhanced Recovery Company, LLC for collection efforts. We are willing to reduce your outstanding balance by offering a discounted payoff amount of \$554.16.

Upon receipt and clearance of \$554.16, your account will be closed and collection efforts will cease.

In addition, any indebtedness of \$600.00 or more, which is discharged as a result of a settlement, may be reported to the IRS as taxable income pursuant to the Internal Revenue Code 6050 (P) and related federal law.

Unless you dispute the validity of the debt, or any portion thereof, within thirty (30) days after your receipt of this notice, the debt will be assumed to be valid by us.



View statements, pay your balance, and manage your account online at www.payerc.com.



Telephone: (800) 270-8749 Toll Free. All calls are recorded and may be monitored for training purposes.



Send correspondence to: Enhanced Recovery Company, LLC., P.O. Box 57610, Jacksonville, FL 32241



Office Hours (Eastern Time): Mon-Thurs: 8:00 am-11:00 pm, Fri: 8:00 am-10:00 pm, Sat: 8:00 am-8:00 pm



This is an attempt to collect a debt. Any information obtained will be used for that purpose.

NOTICE - SEE REVERSE SIDE FOR IMPORTANT NOTICES AND CONSUMER RIGHTS



Please do not send correspondence to this address.

P.O. BOX 1259, Dept 98696
 Oaks, PA 19456



August 03, 2015

Reference Number
 [REDACTED] 3099

Amount of Debt
 \$ [REDACTED]



98691 - 738



RADAMED VELEZ
 51 RED MAPLE LN
 LEVITTOWN PA 19055-1406

Enhanced Recovery Company, LLC
 P.O. Box 23870
 Jacksonville, FL 32241-3870



044350

0-G-5001-PAP

98691-10005-SIF_01_015-TNB1P-738



Federal Validation Notice:

Pursuant to 15 U.S.C./1692g(a), take notice that:

1. The amount of the claimed debt is the amount stated in the letter on the reverse side of this notice.
2. The name of the creditor to whom the debt is owed is in the letter on the reverse side of this notice.
3. Unless you dispute the validity of the debt, or any portion thereof, within thirty (30) days after your receipt of this notice, the debt will be assumed to be valid by us.
4. If you notify our office below in writing within (30) days of your receipt of this notice that the debt, or any portion thereof is disputed, we will obtain verification of the debt or a copy of any judgment that may be of record against you. We will mail the verification or copy of the judgment to you.
5. Upon your written request to this office within thirty (30) days of your receipt of this notice, we will provide you with the name and address of the original creditor, if different from the current creditor listed in the letter on the reverse side of this notice.

Federal Notice:

This is a debt collector attempting to collect a debt. Any information obtained will be used for that purpose.

Tennessee Residents:

This Collection Agency is licensed by the Collection Service Board of the Department of Commerce and Insurance.

Minnesota Residents:

This Collection Agency is licensed by the Minnesota Department of Commerce.

New York State Residents:

New York City Department of Consumer Affairs License Number: 1394588.

North Carolina Residents:

North Carolina Department of Insurance Permit Number: 103967.

Utah Residents:

As required by Utah Law, you are hereby notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations.

Our Corporate Address is:

Enhanced Recovery Company, LLC.
8014 Bayberry Road
Jacksonville, FL 32256

Colorado Residents:

For information about the Colorado Fair Debt Collection Practices Act, see www.coloradoattorneygeneral.gov/ca or any successor web address.

A consumer has the right to request in writing that a Debt Collector or Collection Agency cease further communication with the consumer. A written request to cease communication will not prohibit the Debt Collector or Collection Agency from taking any other action authorized by law to collect the debt. Local Address: 13111 E. Briarwood Ave. #340, Centennial, CO 80012, (303) 309-3839.

California Residents:

1. The State Rosenthal Fair Debt Collection Practices Act and the Federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8 AM or after 9 PM. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at: 1-877-FTC-HELP or www.ftc.gov.

2. As required by law, you are hereby notified that a negative credit report reflecting on your credit record may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit obligations.

Massachusetts Residents:

You have the right to make a written or oral request that telephone calls regarding your debt not be made to you at your place of employment. Any such oral request will be valid for only ten (10) days unless you provide written confirmation of the request postmarked or delivered within seven (7) days of such request. You may terminate this request by writing to the debt collector. If you wish to discuss this matter, please call us direct, between the hours of 8 AM and 5 PM EST, at the telephone number listed on the front of this notice. Local Address: 49 Winter Street, Weymouth, MA 02118.

We at Enhanced Recovery Company, LLC specialize in assisting persons in different financial situations. If additional assistance is needed, please contact us or visit our website.